

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Carriage Complaints Against	)	
	)	
Trust Cable of Mississippi Inc.,	)	CSR-8205-M
James Cable LLC,	)	CSR-8207-M
Southern Cable Services LLC,	)	CSR-8209-M
KFW Communications, and	)	CSR-8210-M
Envision Media, Inc.	)	CSR-8249-M
	)	
By	)	
	)	
The Board of Trustees of the University of	)	
Alabama, Licensee of WUOA, Tuscaloosa,	)	
Alabama	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: January 20, 2010**

**Released: January 20, 2010**

By the Senior Deputy Chief, Policy Division, Media Bureau:

**I. INTRODUCTION**

1. Pending before us are five mandatory carriage complaints<sup>1</sup> brought by the Board of Trustees of the University of Alabama (“Trustees”), licensee of local commercial television station WUOA-DT, Tuscaloosa, Alabama (“WUOA”) against Trust Cable of Mississippi Inc. (“Trust Cable”), James Cable LLC (“James Cable”), Southern Cable Services LLC (“SCS”), KFW Communications (“KFWC”), and Envision Media, Inc (“Envision”).<sup>2</sup> WUOA is assigned to the Birmingham, Alabama Designated Market Area (“DMA”), and it is seeking carriage on cable systems located in the same market. All five carriage complaints are unopposed, and we consolidate and grant these complaints for the reasons discussed below.

**II. BACKGROUND AND DISCUSSION**

2. Pursuant to Section 614 of the Communications Act of 1934, as amended (the “Act”), and implementing rules adopted by the Commission, commercial television broadcast stations such as WUOA, are entitled to assert mandatory carriage rights on cable systems located within their market.<sup>3</sup> A

<sup>1</sup> These complaints are brought pursuant to Sections 76.7 and 76.61 of our rules. 47 C.F.R. §§ 76.7 and 76.61.

<sup>2</sup> Petition for Special Relief of Trustees against Trust Cable (CSR-8205-M), filed Sept. 15, 2009 (“Trust Complaint”), James Cable (CSR-8207-M), filed Sept. 17, 2009 (“James Cable Complaint”), SCS (CSR-8209-M), filed Sept. 11, 2009 (“SCS Complaint”), KFWC (CSR-8210-M), filed Sept. 11, 2009 (“KFWC Complaint”), and Envision (CSR-8249-M), filed Nov. 30, 2009 (“Envision Complaint”).

<sup>3</sup> See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, MM Docket No. 92-259, Report and Order, 8 FCC Rcd 2965, 2975-77, ¶¶ 41-46 (1993) (“*Must Carry Order*”). The Commission has subsequently extended mandatory carriage rights to digital television stations under Section 614(a) of the Act and has amended its rules accordingly. See *Carriage of Digital Television* (continued....)

station's market for this purpose is its "Designated Market Area," or DMA, as defined by Nielsen.<sup>4</sup> The term DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns. Pursuant to the Commission's must carry rules, cable operators have the burden of showing that a commercial television station that is located in the same DMA is not entitled to carriage.<sup>5</sup>

3. WUOA-DT is a local commercial television station licensed to Tuscaloosa, Alabama, which has been operating in the Birmingham, Alabama DMA since before the October 1, 2008 carriage election deadline – the deadline applicable to the 2009-2011 triennial carriage cycle. WUOA did not elect retransmission consent for the current carriage cycle, and is consequently a must-carry station.<sup>6</sup> After WUOA began broadcasting an over-the-air digital signal on June 12, 2009, it noted that it was not being carried on cable systems serving communities in the DMA that were operated by Trust Cable, James Cable, SCS, KFWC, and Envision, and accordingly, it mailed demands for carriage to each of these cable operators.<sup>7</sup> WUOA asserts that the thirty-day period for each cable operator to respond or comply with each carriage request letter has expired.<sup>8</sup> Therefore, WUOA argues that it filed its must carry complaints within the relevant sixty-day deadline and asks the Bureau to compel carriage of its local signal on these cable systems.<sup>9</sup>

4. The Bureau has received no response to WUOA's mandatory carriage complaints and deems them unopposed. Based on the facts presented, we find that WUOA is a local commercial<sup>10</sup> television station that may exercise mandatory carriage rights for its broadcast signal on the cable systems at issue.<sup>11</sup>

(...continued from previous page)

*Broadcast Signals First Report and Order*, See 16 FCC Rcd 2598, 2606 ¶¶ 15-16, 2610 ¶28 (2001) ("DTV Must Carry Order"); see also 47 C.F.R. §76.64(f)(4).

<sup>4</sup> Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. See 47 U.S.C. § 534(h)(1)(C). Section 76.55(e)(2) of the Commission's rules specifies that a commercial broadcast television station's market is its Designated Market Area as determined by Nielsen Media Research. 47 C.F.R. § 76.55(e)(2).

<sup>5</sup> See *Must Carry Order*, 8 FCC Rcd at 2990, ¶ 102.

<sup>6</sup> See Trust Complaint at 3-4, James Cable Complaint at 3-4, SCS Complaint at 4, KFWC Complaint at 4, and Envision Complaint at 3-4.

<sup>7</sup> See Trust Complaint, Ex. 1, Carriage Request Letter dated June 12, 2009, from M. Scott Johnson, Counsel to Trustees to Trust Cable; James Cable Complaint, Ex. 1, Carriage Request Letters dated June 12 & 15, 2009, from M. Scott Johnson to James Cable; SCS Complaint, Ex. 1, Carriage Request Letters dated June 12 & June 15, 2009, from M. Scott Johnson to SCS; KFWC Complaint, Ex. 1, Carriage Request Letter dated June 12, 2009, from M. Scott Johnson to KFWC, at 2; Envision Complaint, Ex. 1, Carriage Request Letter dated Sep. 24, 2009, from Thomas J. Dougherty, Counsel to Trustees to Envision, at 1 (collectively, the "Carriage Request Letters"). WUOA attaches return receipts to each of these Carriage Request Letters showing receipt by the cable operator.

<sup>8</sup> See 47 C.F.R. § 76.61(a)(2).

<sup>9</sup> See 47 C.F.R. §§ 76.61(a)(3)(ii), 76.61(a)(5)(i) & (ii).

<sup>10</sup> WUOA's Complaints and Carriage Request Letters noted that it was a commercial station affiliated with the "This TV" network and that it featured the extensive TV and film libraries of the MGM and United Artists studios, syndicated programming, local news, and University of Alabama sports and cultural programming. See Trust Complaint at 1, James Cable Complaint at 1, SCS Complaint at 1, KFWC Complaint at 1, and Envision Complaint at 1; see also Carriage Request Letters at 2.

<sup>11</sup> Each full-power commercial television station that elected mandatory carriage on October 1, 2008, actually or constructively, was entitled to receive must carry rights for its post-transition digital signal without any gap in carriage. See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, (continued....)

Because WUOA has fulfilled all requirements for asserting its mandatory carriage rights, and because the cable operators have put forth no reason why WUOA should be denied carriage on their cable systems, we grant WUOA's mandatory carriage complaints.

## V. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED**, that the Mandatory Carriage Complaints (CSR-8205-M, CSR-8207-M, CSR-8209-M, CSR-8210-M, and CSR-8249-M) filed by The Board of Trustees of the University of Alabama, licensee of local commercial television station WUOA-DT, Tuscaloosa, Alabama **ARE GRANTED**; and,

6. **IT IS FURTHER ORDERED THAT** within 45 days of the date of this order, Trust Cable of Mississippi Inc., James Cable LLC, Southern Cable Services LLC, KFW Communications, and Envision Media **MUST COMMENCE CARRIAGE OF** WUOA-DT on each cable system they operate that serves communities within the Birmingham, Alabama DMA.

7. This action is taken under authority delegated by Section 0.283 of the Commission's rules, 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broecker  
Senior Deputy Chief, Policy Division  
Media Bureau

---

(...continued from previous page)

Declaratory Order, 23 FCC Rcd. 14254, 14258 ¶ 13 (2008). Furthermore, there is no time limit on the right to exercise must-carry rights and they may be invoked at any time in the triennial election cycle. *See Must Carry Order*, 8 FCC Rcd. at 2994, ¶ 119 (“[W]henver a local commercial television station believes that a cable operator has failed to meet its must-carry obligations, the station must notify the operator, in writing, of the alleged failure.”); *see also Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Broadcast Signal Carriage Issues*, Clarification Order, 8 FCC Rcd. 4144, ¶ 15 (1993) (“We reiterate our clarification that broadcast stations may assert their carriage and channel positioning rights at any time so long as they have not elected retransmission consent.... Therefore, a time limit on the exercise of must-carry rights is not only contrary to the 1992 Act and our rules, but is unrealistic.”)